

From the President

Morteza Bakhtiari
Minister of Justice
Tehran, Valiasr St, Number:1816
Post Code: 1415855139

Email: bakhtiari@justice.ir

6 November 2012

Dear Minister Morteza Nakhtiari,

Mr Javid Houtan Kian: Lawyer at risk

The Law Society is the professional body representing more than 150,000 solicitors in England and Wales. Its concerns include upholding the independence of the legal profession, the rule of law and human rights throughout the world.

The Law Society is deeply concerned by the detention, conviction and treatment in prison of Mr Javid Houtan Kian the lawyer who has represented Mrs Sakineg Mohammadi Ashtiani. He was arrested by members of the Ministry of Intelligence in October 2010 following Mrs Ashtiani's conviction, together with two German journalists and Sajjad Ghaderzadeh, Mrs Ashtiani's son. He was accused of acting against national security and harming public order and was found guilty without any evidence being offered and sentenced to 11 years in prison following a televised confession and barred from practising law for 5 years.

We recall that Mr Houtan Kian publicly supported Mr Sajjad Ghaderzadeh's campaign to raise international awareness about Mrs Ashtiani's case. We are concerned because his arrest and imprisonment follows a pattern in which lawyers representing clients whose cases attract international scrutiny and support are accused of offences, convicted without compliance with international norms, imprisoned and barred from practice.

We understand that Mr Houtan Kian's detention has violated several international norms. He was held for seven months without being charged with any alleged offences and had no access to a lawyer. He was in solitary confinement, was fed one meal a day and suffered violent assaults in which his nose and several teeth broken. He was denied further visits to his lawyer soon after he was given permission to have a lawyer following an interview given by his lawyer Naghi Mahmoudi in which he revealed inhuman and degrading treatment inflicted to Mr Houtan Kian in prison.

In this context, The Law Society would draw your attention to the fact that Iran has ratified the International Covenant on Civil and Political Rights (ICCPR) in 1975 and as such is legally bound to observe its provisions including Articles 7, 10 and 14 which state that:



The Law Society

Article 7.

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 10.

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

Article 14.

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

(a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(c) To be tried without undue delay;

(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;...

(g) Not to be compelled to testify against himself or to confess guilt...

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

In this context, we would also draw to your attention Articles 16(a) and (c), 17 and 18 of the UN Basic Principles on the Role of Lawyers (1990) which state that:

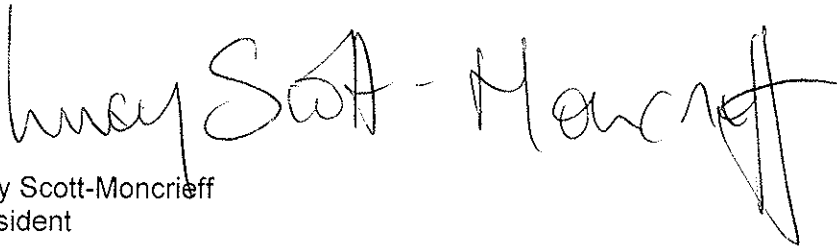
16. Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; ... and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

17. Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.

18. Lawyers shall not be identified with their clients or their clients' cases as a result of discharging their functions.

On behalf of the Law Society I respectfully urge you to take steps to have the legality of the trial and sentence examined for compliance with these international norms which bind Iran. If the trial is not annulled we request that his appeal is heard by an impartial tribunal, in public and having allowed time and facilities for the preparation of his case. Further I respectfully urge you to initiate an impartial investigation into the circumstances in which Mr Houtan Kian suffered these serious injuries. I also earnestly ask that you will act to ensure that all lawyers acting within Iran are free to provide legal representation and advice to their clients and that all trials are conducted in accordance with recognised international principles.

Yours sincerely

A handwritten signature in black ink, reading "Lucy Scott-Moncrieff". The signature is written in a cursive, flowing style with a large, sweeping flourish at the end.

Lucy Scott-Moncrieff
President

Direct Line: 020 7320 5602
Direct Fax: 020 7320 5759
lucy.scott-moncrieff@lawsociety.org.uk

cc: His Excellency Ayatollah Sayed ' Ali Khamenei
The Office of the Supreme Leader, Soahada Street
Qom, Islamic Republic of Iran